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| 10/635,671      | 08/06/2003  | Maurus Logan         |                     | 1789             |

7590 08/02/2005

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| EXAMINER |
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LAVINDER, JACK W

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| ART UNIT | PAPER NUMBER |
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3677

DATE MAILED: 08/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/635,671

Applicant(s)

LOGAN, MAURUS

Examiner

Jack W. Lavinder

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 June 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

The finality of the last office action has been withdrawn in view of applicant's remarks in their brief. The following is a set of new rejections based on the art of record.

#### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Fennell, 4700432.

Regarding claim 1, Fennell discloses an apparatus for bundling conductors comprising a cable tie (15) and a flat cable-encircling member (7, 11) having a width exceeding a width of the cable tie strap. Fennell also discloses that the cable-encircling member is flat throughout a full length and is spirally wound about the cables (figure 4) and the cable tie is capable of being wound about the outside of the encircling member.

Regarding claim 2, Fennell discloses an aperture (13) between the inner and outer surfaces of the encircling member for accommodating the cable tie.

Regarding claim 3, Fennell discloses a cable tie strap capable of encircling the outer surface of the encircling member.

Regarding claim 4, Fennell discloses a cable-encircling member with a passage (13) for the cable tie, i.e., the opening of the passage extends a distance along the outer

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surface of the cable encircling member for a distance about equal to the thickness of the cable tie (15) to allow passage of the cable tie through the passage.

Regarding claim 5, Fennell discloses a cable tie strap encircling an outer surface of the cable-encircling member and a second surface encircling the conductors (figure 4).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fennell, 4700432 in view of Farrell, 5354021.

Regarding claims 4 and 5, assuming that the above interpretation of Fennell is proven incorrect, Fennell fails to disclose a passage extending along the first outer surface, i.e., Fennell fails to disclose a passage having a central axis extending longitudinally long and substantially parallel to the first outer surface. Farrell discloses a cable-encircling member with a passage (26) extending along and substantially parallel (at least for a small extent) to a first outer surface of the cable encircling member (walls of groove 26 form a passage for the cable tie). Farrell discloses this passage as a means for retaining the cable tie centrally positioned on the cable encircling member (col. 4, line 31).

It would have been obvious to a person having ordinary skill in the art to add the passage to Fennell's cable encircling member in order to prevent the tie from laterally sliding off of the cable encircling member—improving the reliability of the cable bundling device.

Regarding claim 6, Fennell discloses the method of providing a cable tie (15), a cable-encircling member having a width exceeding a width of the cable tie strap and in a flattened state throughout a full length (7, 9, 11, figure 2) and then forming the encircling member from a flattened state into a spiral coil. Fennell discloses, in combination, a hook and loop fastener with a cable tie strap for connecting the clamp to the conductors. Fennell fails to disclose wrapping the cable tie about the outer surface of the coiled encircling member.

Farrell discloses the method step of providing the encircling member in a spiral coil state and wrapping the cable tie about the outer surface of the spiral wound coil to secure the cable clamp to the conductors. Farrell's cable tie is an alternative design to the use of a hook and loop fastener for securing the cable encircling member about the conductors. They both perform the identical function of securing the encircling member about the conductors equally as well as the other.

It would have been obvious design choice to a person having ordinary skill in the art to substitute Fennell's hook and loop fastener with a single cable tie surrounding the outer circumference of the encircling member to provide an alternative means of fastening the encircling member about the conductors. One reason would be to reduce the manufacturing costs associated with the hook and loop fastening element. Another

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reason would be to provide a more permanent clamping arrangement for the support of the bundle of conductors. The cable tie is not reversible whereas the hook and loop fastener could possibly come undone.

Regarding claim 7, Fennell discloses an aperture (13) for receiving the cable tie strap.

Regarding claim 8, Farrell discloses a cable-encircling member with a passage (26) for the cable tie (figure 2). This passage allows the cable tie strap to be flush mounted with the exterior surface of the clamp.

It would have been obvious to a person having ordinary skill in the art to have provided Fennell's encircling member with a passage, as taught by Farrell, to improve the aesthetic appearance of the cable clamp by hiding the cable tie strap within the passage.

### ***Response to Arguments***

5. Applicant's arguments filed 6/9/05 have been fully considered but they are not persuasive. With regard to the rejection of claim 6, the applicant argues on pages 13-15 of the brief that the examiner uses impermissible hindsight to combine the references. The applicant states, page 15 of brief,

"assembling a cable tie about Fennell's device would be fully of no use—Fennell's flexible strap member already has its own fastening elements—its hooks and loops. Per Fennell, the user of his device engages the hooks and loops after it is in encircling relation to conductors, at which point a cable tie wrapped around the flexible strap member could not serve to change the spiraling degree of the flexible strap member. The Examiner needs to remove such fastening elements. But the same are fundamental to the Fennell approach, which requires device reusability and fastening elements which are on the flexible strap member (Fennell Patent, Col. 2, ls. 15-22)."

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The applicant misconstrues the examiner's position. Fennell teaches attaching one end of the flat cable encircling member to a single conductor with a cable tie strap. Next, the cable encircling member is spirally wrapped and secured about the bundle of conductors with a temporary, releasable hook and loop fastener.

Farrell teaches the use of a cable tie being positioned in a channel about a cable encircling member, which has been spiraling wrapped about a bundle of conductors, to semi-permanently secure the cable encircling member about the bundle.


The use of hindsight is non-existent in this combination. Both devices are directed to a member of bundling, securing and supporting a bundle of conductors. Both devices are using very similar methods of bundling and securing the conductors about a cable encircling member. The differences arise the method of securing the cable encircling member about the bundle of conductors. One of ordinary skill in the art recognizes that a hook and loop fastening and a plastic cable tie are well known equivalent fastening devices with the difference being that a hook and loop fastener is reuseable and the cable tie is permanent. One of ordinary skill in the art would be motivated in situations where the cable bundle support needs to be a permanent support for the conductors, i.e., the support should not be readily and easily disengaged. In these situations, one would be motivated to use a more permanent securing device, such as a plastic cable tie, to replace the releasable hook and loop fastener. This would be done to ensure that the bundle of conductors stays a bundle of conductors and does not unintentionally become undone.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack W. Lavinder whose telephone number is 571-272-7119. The examiner can normally be reached on Mon-Friday, 9-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jack W. Lavinder  
Primary Examiner  
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7/28/05